

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THE ESTATE OF JAMES FRANKLIN
PERRY, et al.,

Plaintiffs,

v.

Case No. 12-CV-664

CHERYL WENZEL, RN, *et al.*,

Defendants.

STIPULATION

WHEREAS, counsel for the parties have conferred repeatedly and again this day, regarding various proposed motions *in limine* and, as a result, have reached agreement on certain evidentiary issues;

NOW, THEREFORE, the parties, by their undersigned counsel, hereby stipulate and agree as follows:

1. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* No. 1, Plaintiffs' expert witness, Robert Prevot, will not offer any opinions at trial with respect to defendants Nichole Virgo and Cheryl Wenzel or any Milwaukee County defendant previously dismissed from this lawsuit;

2. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* No. 2, no party shall offer any evidence or argument at trial regarding: (a) deaths at the Milwaukee County Jail other than the death of James Franklin Perry; (b) the criminal proceedings pending as a result of the death of Terrill Thomas; (c) the consent decree governing the operation of the Milwaukee County Jail as a result of the *Christensen v. Sullivan* lawsuit

(Milwaukee County Circuit Court Case No. 96-CV-1835); or (d) Milwaukee County's compliance with said consent decree;

3. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* No. 3, no party shall offer any evidence or argument at trial regarding the prior employee disciplinary record, if any, of defendants Nichole Virgo and Cheryl Wenzel or any Milwaukee County Defendant previously dismissed from this lawsuit;

4. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* 5, no party shall call David A. Clarke, Jr. as a witness at trial;

5. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* No. 6, no party shall offer opinion testimony from Edward A. Flynn regarding the actions of defendants Nichole Virgo and Cheryl Wenzel or any Milwaukee County Defendant previously dismissed from this lawsuit;

6. In conjunction with the Milwaukee County's Defendants' proposed motion *in limine* No. 8, no party shall offer any photos from the autopsy of James Franklin Perry as evidence at trial;

7. In conjunction with the Plaintiff's proposed motion *in limine* No. 7, no party shall offer any evidence or argument at trial: (a) that James Franklin Perry was not in Milwaukee County's custody while at the Milwaukee County Criminal Justice facility; or (b) that the Milwaukee County Defendants, Virgo and Wenzel, did not owe James Franklin Perry any constitutional duties because he was not in Milwaukee County's custody, except that the Milwaukee County witnesses may testify regarding the fact that Perry was not accepted for admission to the jail; and

8. In conjunction with the Plaintiff's proposed motion *in limine* No. 8, no party shall offer expert testimony that is not contained in that expert's previously filed report or that expert's previously stated opinions.

9. In conjunction with the City of Milwaukee Defendants proposed Motion *in limine* No. 5, no party shall offer any Testimony/Statements/Argument/Evidence regarding any disciplinary matter, or related investigation, involving any MPD officer, including the remaining defendant officers.

10. In conjunction with the City of Milwaukee Defendants proposed Motion *in limine* No. 6, no party shall offer any Testimony/Statements/Argument/Evidence regarding any other event involving current or former MPD officers, including the Frank Jude, Dontre Hamilton, and Derek Williams matters;

11. In conjunction with the City of Milwaukee Defendants proposed Motion *in limine* No. 7, no party shall offer Any Testimony/Statements/Argument/Evidence suggesting that any policy or training of the MPD is improper or unlawful, or that the City failed to adequately investigate in-custody deaths, including the instant case, and/or that the City failed to properly discipline its officers who were involved with in-custody deaths;

12. In conjunction with the City of Milwaukee Defendants proposed Motion *in limine* No. 8, no party shall offer any portion of the images captured by PPS security cameras and/or any other recording equipment which does not relate directly to the PPS processing of Mr. Perry on 9/13/10.

Dated: 6-27-18



James J. Gende, II
GENDE LAW OFFICES SC
N28 W23000 Roundy Drive, Suite 200
Pewaukee, WI 53072
(262) 970-8500 Phone
(262) 970-7100 Fax
jgende@jamesgendelaw.com

Attorneys for Plaintiffs

Dated: 6/27/18

s/ Andrew A. Jones
Andrew A. Jones
Karen L. Tidwall
Kurt M. Simatic
HUSCH BLACKWELL LLP
555 East Wells Street, Suite 1900
Milwaukee, WI 53202-3819
(414) 271-2300 Phone
(414) 223-5000 Fax
Andrew.Jones@huschblackwell.com
Karen.Tidwall@huschblackwell.com
Kurt.Simatic@huschblackwell.com

Emile H. Banks, Jr.
EMILE BANKS & ASSOCIATES, LLC
High Pointe, Suite 290
1200 North Mayfair Road
Milwaukee, WI 53226
(414) 777-0000 Phone
(414) 777-0090 Fax
emile@emilebanksllaw.com

Attorneys for Defendants,
Cheryl Wenzel and Nichole Virgo

Dated: 6/27/18

s/ Susan E. Lappen

Susan E. Lappen

GRANT F. LANGLEY, CITY ATTORNEY

200 East Wells Street, Room 800

Milwaukee, WI 53202

(414) 286-2601 Phone

(414) 286-8550 Fax

slappe@milwaukee.gov

Attorneys for Defendants, City of Milwaukee and
the individually-named City of Milwaukee
employees